

REMARKS

Applicants acknowledge that the previous rejections of record have been withdrawn. The specification has been amended to list the address of the depository and the date of the deposit in accordance with MPEP 24011.05 and 37 CFR 1.809(d). Applicants further submit the biological deposit receipt from the ATCC, and form PCT/RO/134 providing indications relating to deposited microorganisms. Claim 1 has been amended to make the claim more grammatically correct.

The drawing has been objected to under 37 CFR 1.83(a) for failure to show distinct gel profiles for each of the depicted microorganisms' DNA. Transmitted herewith is a Submission of a Replacement Sheet of Drawing with an accompanying one sheet of drawing (Fig. 1) to replace the informal drawing originally submitted with the application. The Replacement Sheet is believed to be fully compliant with 37 CFR 1.121(d).

Applicants note the Examiner's statement that claims 9-35 have been withdrawn as being directed to a nonelected invention. However, claims 9-35 have already been canceled and no amendment of inventorship is believed necessary as a result of that cancelled subject matter.

Claims 1-2 and 36-41 stand rejected under 35 USC 112, first paragraph for lack of enablement. The Examiner notes that the microorganisms have been deposited with an international depository (American Type Culture Collection), but there is no indication in the specification as to public availability. The undersigned attorney of record hereby states that the deposit of bacterial strains *Enterococcus durans* having ATCC accession number PTA-4758, *Enterococcus durans* having ATCC accession number PTA-4759, *Lactococcus lactis* having ATCC accession number PTA-4760, and *Lactococcus lactis* having ATCC accession number PTA-4761 were made under the Budapest Treaty. Furthermore, these specific strains will be irrevocably and without restriction or condition released to the public upon issuance of a patent for the claimed subject matter.

The statement provided by the undersigned attorney is believed fully address the Examiner objection under 35 USC 112, and applicants respectfully request the withdrawal of the rejection of claims 1-2 and 36-41 under that statutory section.

Applicants believed the claims are in condition for allowance and respectfully request passage of the application to issuance.

Respectfully submitted,



Bradford G. Addison
Registration No. 41,486
Attorney for Applicants

BGA:glt
Indianapolis, Indiana 46204
317-231-7253